

Medical tools, devices and equipment such as x-ray machines, laboratory equipment, and surgical instruments which may be used in the treatment of patients but, which do not directly substitute for a malfunctioning part of the body do not qualify as exempt medical appliances subject to the reduced rate. See 86 Ill. Adm. Code 130.310(c)(2) (This is a GIL.)

July 10, 2003

Dear Xxxxx:

This letter is in response to your letter dated April 21, 2003. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See, 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200>.

In your letter you stated and made inquiry as follows:

Enclosed is AAA Product Description form that we request that you fill out. In order to help us accurately charge tax for our products in your state please complete the form as to which product is taxable or exempt. Please date and sign the form on page three.

After completing the form please send it to:

ADDRESS

Your cooperation in getting this form completed is greatly appreciated. If you have any questions please call.

We are unable to respond to your letter in the manner requested. Please find below general information regarding the tax rate charged on the sale of medical appliances in Illinois and an explanation of how the tax is applied.

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 86 Ill. Adm. Code 130.101. Illinois imposes a Use Tax on the privilege of using in this State any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. The sales tax rate is 6.25%, plus any applicable local taxes. A reduced sales tax rate is applicable, however, to the sale of medical appliances.

For your information and reference please find enclosed a copy of the Department's regulation on the reduced tax rate under the Retailers' Occupation Tax Act applicable to food, drugs, medicines

and medical appliances, 86 Ill. Adm. Code 130.310. A 1% sales tax rate, plus applicable local taxes, is applied to food for human consumption to be consumed off the premises where sold, and prescription and non-prescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing utensils, syringes, and needles used by diabetics, for human use.

A medical appliance is an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. Such items may be prescribed by licensed health care professionals for the use by patients, purchased by health care professionals for the use of patients, or purchased directly by individuals. Medical appliances include such items as artificial limbs, dental prostheses and orthodontic braces, crutches and orthopedic braces, wheelchairs, heart pacemakers, and dialysis machines, including the dialyzer. Corrective medical appliances such as hearing aids, eyeglasses and contact lenses also qualify for the reduced rate. See Section 130.310(c)(2). Additionally, sterile dressings, bandages and gauze qualify for the reduced rate. Diapers and undergarments for incontinent adults are also taxed at the reduced rate. See Section 130.310(c)(3).

Other medical tools, devices and equipment such as x-ray machines, laboratory equipment, and surgical instruments which may be used in the treatment of patients but, which do not directly substitute for a malfunctioning part of the body do not qualify as exempt medical appliances subject to the reduced rate. See Section 130.310(c)(2).

Insulin, urine testing materials, syringes and needles used in treating diabetes in humans qualify for the reduced rate of tax. No other diagnostic equipment is deemed a medical appliance. See Section 130.310(d).

The medical products described in your letter are subject to the reduced tax rate only if they are considered a medical appliance, or fall within one of the other exemptions described above. Therefore, the product is taxed at the reduced rate of 1%, plus applicable taxes if it is an item intended by its manufacturer for use in directly substituting for a malfunctioning part of the body. If your medical product is used in treating patients, but does not directly substitute for a malfunctioning part of the body, then it is not considered a medical appliance and is taxed at the regular Illinois sales tax rate of 6.25%, plus applicable local taxes. There are no other exemptions from the regular sales tax rate for medical related products.

I hope this information has been helpful. The Department of Revenue maintains a website, which can be accessed at www.state.il.us. If you have further questions related to the Illinois sales and use tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in item 1 through 8 of Section 1200.110(b). Such regulation may be obtained from our website mentioned above.

Sincerely,

Dana Deen Kinion
Associate Counsel

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Enc.